



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.No.47 of 2023

and

C.M.P.No.439 of 2023

T.S.Murugesan

... Petitioner

Vs.

E.Kanniappan

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order and Decreetal order dated 28.10.2022 made in E.A.No.204 of 2018 in E.P.No.92 of 2010 in R.C.O.P No.32 of 2005 on the file of the Principal District Munsif, Alandur and thereby allowing the above revision.

For Petitioner

: Mr.R.Thiagarajan

ORDER

The Civil Revision Petition has been filed against the order and Decreetal order dated 28.10.2022 passed in E.A.No.204 of 2018 in E.P.No.92 of 2010 in RCOP No.32 of 2005.



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2. The revision petitioner is the tenant and the respondent/landlord instituted proceedings for eviction in RCOP No.32 of 2005.

3. It is not in dispute that an *ex-parte* decree of eviction was passed in RCOP No.32 of 2005 on 09.02.2010 itself. The respondent/ decree holder filed Execution Proceedings in E.P.No.92 of 2010 and the said Execution Petition is pending unfortunately for the past about 12 years.

4. A decree holder obtained an order of eviction in the year 2010 is struggling to get vacant possession of his own premises for the past about 12 years, which would show the displeasure on the system itself in delivering justice to the citizen within a reasonable period of time. It is a classic case, where the process is abused and dragging on the Execution Proceeding is most unfortunate.

5. The Hon'ble Supreme Court of India held that the Execution Petitions must be decided within a period of six (6) months and any adjournments thereafter, must be on genuine reason, which all are to be recorded.



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6. The Apex Court reiterated that the adjournments are to be granted by recording reasons, if the Execution Petitions are kept pending for more than six (6) months. This being the rule of law, in the present case, the Execution Petition is pending for the past about 12 years before the Execution Court.

7. While so, the revision petitioner/ tenant filed E.A.No.204 of 2018, after a lapse of about 8 years from the date of filing of the Execution Petition and pleaded that the decree is not executable.

8. The learned counsel for the revision petitioner mainly contended that the revision petitioner/ tenant entered into a sale agreement on 02.06.2001 and on 03.05.2002 respectively. The said sale agreements are required to be honoured by the respondent/ landlord and in this regard, a Suit for Specific Performance was instituted, which was dismissed.

9. When the respondent/ landlord executed a sale agreement, the Execution Court ought to have considered the said factum and to be held that



the decree for eviction is not executable.

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10. This Court is of the considered opinion that in respect of the sale agreement as stated by the revision petitioner, it was of the years 2001 and 2002. The RCOP was filed in the year 2005, after a lapse of about four (4) years from the date of 1st agreement and 3 years from the date of 2nd sale agreement. Admittedly, the sale deed was not executed. The Suit filed by the revision petitioner in O.S.No.777 of 2002 was dismissed. While so, the said agreement lost its relevancy in respect of the decree passed in RCOP No.32 of 2005.

11. Even in cases, where, a sale agreement between the landlord and tenant is in force, the said transaction cannot stand in the way of the landlord to seek eviction on the ground under the provisions of the Special Act. The Rent Control Proceedings are independent and no way connected with the sale agreement or otherwise.

12. In the present case, the RCOP Proceedings was initiated in the year 2005 and an *ex-parte* decree for eviction was passed by the Rent Controller



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in the year 2010, the Execution Petition was filed immediately in E.P.No.92 of 2010 and the E.A was filed in the year 2018, which was dismissed by the Execution Court on 28.10.2022.

13. The longevity of litigation in the matter of evicting a tenant in the present case is shocking to the conscious of this Court and further, the grounds raised one way or other in E.A are flimsy in nature and this Court do not find any infirmity in respect of the order passed by the Execution Court in E.A.No.204 of 2018. Accordingly, the order and decretal order dated 28.10.2022 passed in E.A.No. 204 of 2018 in E.P.No.92 of 2010 in RCOP No.32 of 2005 is confirmed and C.R.P.No.47 of 2023 stands dismissed. Invoking powers under Article 227 of the Constitution of India, this Court is inclined to direct the revision petitioner/ tenant to evict the premises.

14. The revision petitioner/ tenant is directed to vacate the premises and hand over the vacant possession to the respondent/ landlord within a period of one month from today, failing which, the respondent/ landlord is at liberty to move this Court for contempt.



15. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

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skr/sp

Index : Yes

Speaking order

Neutral Citation : Yes

To

The Judge,
Principal District Munsif,
Alandur.



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S.M.SUBRAMANIAM, J.

skr/sp

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